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February 19, 2015

VIA ECF

Hon. Andrew J. Peck, U.S.M.J.
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D
New York, New York 10007

Re: Rio Tinto plc v. Vale S.A., et al., Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Peck:

We write on behalf of defendant Vale S.A. ("Vale") with respect to the purported pre-motion letter filed by plaintiff Rio Tinto plc ("Rio Tinto"), dated February 18, 2015 (Dk. 184), that seeks to compel production, in two days, of the eight-volume VBG Feasibility Study, without regard to relevance and without the opportunity to apply appropriate redactions. Plaintiff's complaints are unfounded and premature and its characterization of the issue as "pressing" pretextual. More important, Plaintiff's letter flouts the Court's clear and repeated instructions regarding the pre-conference letter procedure, which calls for a joint letter three days before the conference setting out each party's positions on the issues in dispute:

[W]e are going to do it then as a joint letter and none of this I don't want to be in the joint letter or it's too hard to coordinate or whatever. . . . But it means there will be a paragraph, . . . : Here is plaintiff's position, here is defendants', and we are done. That works a lot better for me. So that is going to be what we are doing. Three days before. It is plaintiff's responsibility to coordinate it all, but it is defendants' responsibility to cooperate on that and not say no, I don't want a joint letter. . . . Exchange your position a day before the letter is due, and the letter comes in three days before the conference, period.

(Dec. 9, 2014 Tr. 3:23-4:21; *see also* Feb. 6, 2015 Tr. 30:1-15.)

Hon. Andrew J. Peck, p. 2

Vale has honored the Court's orders and it is prejudiced by Plaintiff's violation of them. Vale respectfully requests that the Court disregard Plaintiff's letter and that Plaintiff be directed to reduce its argument to the form set forth in the Court's order. In the alternative, should the Court permit Plaintiff's letter, Vale would be prepared to provide a substantive response by close of business this Friday.¹

Respectfully submitted,

/s/ Lewis J. Liman
Lewis J. Liman

¹ While Plaintiff characterizes this issue as "pressing" it does not explain why it is any more pressing than any other issues that any of the other parties – including Vale – plan to raise with the Court in a matter of days in accordance with the Court's procedure.